IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No. 7053 of 2007

For Approval and Signature:
HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ANILBHAI PRATAPSINH RAJPUT & 1 - Applicant(s)
Versus
STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :
MR SUDHANSHU S PATEL for Applicant(s) : 1 - 2.
MR MENGDE, ADDL. PUBLIC PROSECUTOR for Respondent(s) : 1,
None for Respondent(s) : 2 - 3.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 26/06/2007

ORAL JUDGMENT

1. Rule. Shri M.R.Mengde, learned APP waives service of rule on behalf of the respondent Nos.1 and 2. Shri J.R.Dave, learned advocate waives service of rule on behalf of the respondent No.3 – original complainant. He has

submitted that he will be filing the Vakalatnama on behalf of the respondent No.3 during the course of the day. With the consent of the learned advocates appearing for the respective parties, the matter is taken up for final hearing today.

2. By way of this application under Section 482 of the Code of Criminal Procedure, the petitioners – original accused have prayed for an appropriate order to quash and set aside the complaint being FIR CR No.I-443 of 2007 registered with Amraiwadi Police Station.

3. The respondent No.2 herein, a mother of the petitioner No.2, has filed the complaint with the Amraiwadi Police Station being CR No.I-443 of 2007 for the offence punishable under Sections 363 and 366 of the I.P.C.

4. Today, when the matter is called out, Shri S.S.Patel, advocate appearing for the petitioners has submitted that both the

petitioners have got married and they are living happily and staying together. It is also further submitted that the petitioner No.2 has gone voluntarily with the petitioner No.1 and no offence has been committed by them as alleged under Section 363 r.w. Section 366 of I.P.C.

5. Shri A.R.Dave, learned advocate appearing for the respondent No.2 – original complainant – mother of the petitioner No.2 has submitted that in view of the fact that the petitioners have got married and residing and staying together happily, she has no objection, if the impugned FIR / complaint is quashed and the same would be in the interest of her children.

6. Shri Patel, learned advocate appearing for the petitioners has relief upon the judgment of the Honourable Supreme Court in case of ***B.S.Joshi and Others V/s. State of Haryana and Another*** reported in **2003 (2) GLH 351.** Considering the facts that the petitioner No.2 has voluntarily gone with the petitioner No.1 and subsequently

they have got married and are staying together happily, no fruitful purpose would be served in continuing the proceedings against the petitioners. Even otherwise, the respondent No.2 – original complainant has submitted that considering the larger interest of their children, she is not interested in proceeding further with the criminal complaint and the complaint may be quashed.

7. Considering the judgment of the Honourable Supreme Court in case of ***B.S.Joshi and Others*** (supra), the impugned complaint being FIR CR No.I-443 of 2007 registered with the Amraiwadi Police Station is hereby quashed and set aside as it will not be in the interest of the petitioners to continue the prosecution as the petitioners are staying together happily and there is a settlement between the original complainant and the petitioners. Rule is made absolute to the aforesaid extent. Direct Service is permitted.

[M.R.Shah, J.]

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